

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARVIN EVANS, #125097,

Plaintiff,

File no: 1:05-CV-95

v.

HON. ROBERT HOLMES BELL

UNKNOWN GARDINER, et al.,

Defendants.

**ORDER APPROVING MAGISTRATE'S  
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate in this action. The Report and Recommendation was duly served on the parties. No objections have been filed.

NOW THEREFORE, the Report and Recommendation is hereby adopted as the opinion of the Court.

THEREFORE, IT IS ORDERED that:

Defendants' motion for summary judgment (docket #16) is hereby **GRANTED** and judgment is entered in favor of defendants Gardner and Dominguez on all of plaintiff's claims. Plaintiff's claims against the unidentified and unserved Doe defendants is hereby **DISMISSED** without prejudice, with the exception of plaintiff's claims against these defendants in their official capacities, which are **DISMISSED** with prejudice as they are barred by Eleventh Amendment immunity.

Date: January 26, 2006

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
CHIEF UNITED STATES DISTRICT JUDGE